

Attorney Docket No.: 42.P10700

Application No.: 09/966,802

Page 2

## REMARKS

Claims 1, 2, 4-8, 10-14, 16-27, and 30-33 are pending.

In the Final Office Action, the Examiner rejected claims 1, 7, 13, and 19-22 under 35 U.S.C. § 102(b) as being anticipated by Sakata et al. (U.S. Patent No. 5,140,541); and stated that claims 23-27 would be allowable if rewritten in independent form; and stated that claims 2, 4-6, 8, 10-12, 14, 16-18, 23-27, and 30-33 would be allowable if rewritten in independent form.

Applicants respectfully traverse the § 102(b) rejection of claims 1, 7, 13, and 19-22 over Sakata et al. Independent claims 1, 13, 19, and 21 require methods and articles including, *inter alia*, “disengaging [a] filter in a sequence of graduated steps.” Independent claims 7, 13, 20, and 21 require methods and articles including, *inter alia*, “engaging a filter in a sequence of graduated steps.” Independent claim 22 requires a method including, *inter alia*, “inaudibly switching one or more filters on and/or off during processing of an input signal by: migrating their coefficients from an original set of values to a final set of values through a series of intermediate steps.” Sakata et al. fails to disclose all elements of the methods and articles in claims 1, 7, 13, and 19-22.

M.P.E.P. § 2111.01 states that “the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification.” In the Amendment filed November 17, 2004, Applicants explained that the claim term “engaging” is defined<sup>1</sup> in the specification to mean changing a filter *from* a neutralized or ineffective state. Similarly, the

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<sup>1</sup> See paragraph 0014 in the published application, likening “engagement” to “insertion” and “switching on.” See also paragraph 0025 in the published application, stating “The inverse of neutralizing a filter is engaging, or enabling, a filter.”

Attorney Docket No.: 42.P10700

Application No.: 09/966,802

Page 3

claim term “disengaging” is defined<sup>2</sup> in the specification to mean changing a filter to a neutralized or ineffective state. The Final Office Action does not appear to dispute these definitions of “engaging” and “disengaging.”

Rather, page 2 of the Final Office Action postulates a “first filter” at a point when a filter has a first set of coefficients and a “second filter” when the same filter has a second set of coefficients. Then, the Final Office Action reasons, when the second filter is operational, it has been engaged and the first filter has been disengaged. This argument does not comport with the actual teachings of Sakata et al. for two reasons.

First, Sakata et al. teaches only a single, physical filter (e.g., filter 108 in Fig. 1 or filter 300 in Fig. 18, which will be discussed from here on). Sakata et al. also teaches adjusting the cutoff frequency of filter 300 (see Fig. 10), but it does not disclose filter 300 being neutralized or ineffective at any given time. In contrast to the “first and second filters” fabricated on page 2 of the Final Office Action, Sakata et al. only discloses a single filter 300. No evidence has been provided in either Office Action to date that filter 300 is either 1) changing to a neutralized or ineffective state (i.e., “disengaging” or “switching off” as claimed) or 2) changing from a neutralized or ineffective state (i.e., “engaging” or “switching on” as claimed).

Because no evidence has been provided that either filter 108 or filter 300 in Sakata et al. is engaged or disengaged, a *prima facie* case of anticipation has not been established. Thus, the continued rejection of claims 1, 7, 13, and 19-22 is improper and should be withdrawn.

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<sup>2</sup> See paragraph 0014 in the published application, likening “disengagement” to “removal” and “switching . . . off.” See also paragraph 0017 in the published application, likening “disengaged” to “a filter which has no effect.”

Attorney Docket No.: 42.P10700

Application No.: 09/966,802

Page 4

Second, even if Sakata et al. taught a first filter at a first point in time and a second filter at a later time (which it does not as explained above), changing the cutoff frequency does not neutralize or render effective the earlier filter. This will be explained with regard to Fig. 10 in Sakata et al. which illustrates frequency responses for a number of filter coefficients. Where, for example, the cutoff frequency changes, the "first filter" remains operational, because it continues to operate (i.e., stop certain frequencies) over at least a portion of its previous range. Thus, even under the definition on page 2 of the Final Office Action, Sakata et al. fails to teach either engaging or disengaging the "first filter" (as defined), because filter 108 or 300 remains operational both before and after its coefficients change.

Because no evidence has been provided that either filter 108 or filter 300 in Sakata et al. is ineffective or neutralized either before or after its coefficients change, a *prima facie* case of anticipation has not been established. Hence, the continued rejection of claims 1, 7, 13, and 19-22 is improper and should be withdrawn for this additional reason.

Reconsideration and allowance of pending claims 1, 2, 4-8, 10-14, 16-27, and 30-33 are respectfully requested.

In the event that any outstanding matters remain in this application, Applicants request that the Examiner contact Alan Pedersen-Giles, attorney for Applicants, at the number below to discuss such matters.

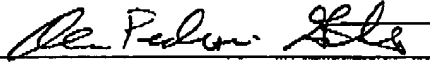
To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0221 and please credit any excess

*Attorney Docket No.: 42.P10700*  
*Application No.: 09/966,802*  
*Page 5*

fees to such deposit account.

Respectfully submitted,

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